

# Polycentricity and Political Islam: Constitutional Challenges in Pakistan

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# Chapter 1

## Introduction

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Can an Islamic polity accommodate diverse institutional arrangements? This challenge appears increasingly urgent given recent regime changes in the Muslim world, and the concern about how different communities and groups will fare under the emerging order. Polycentricity means that “government” is not a monolithic, top-down phenomenon. Instead, there are rules and institutions that shape social relationships and interactions at every level. This book argues that minarchist political Islam provides a normative orientation to polycentric constitutional design, and can be the basis for a productive constitutional order in Pakistan and other Islamic polities.

Monocentric governance and monolithic political Islam are widely assumed by Muslim political elites as well as scholars of Islam and politics. My recent scholarship has challenged these assumptions, and introduced minarchist political Islam (Malik, 2011a; Malik, 2008). However, three key elements have been missing. First, polycentric governance as it applies in developing countries with weak states (the situation in many Muslim contexts) was unexplained. Second, a real-world case of a polity founded on an Islamic identity where polycentric governance could be explored as a viable constitutional level architecture was needed. Third, Vincent Ostrom’s recurring concern (V. Ostrom, 1997; Ostrom, 1995) was that the debasement of language and symbols would pervert the basis for covenanting orders, yet this has not been explored in the political Islamic context, where it arguably takes on urgent and even dramatic meaning.

This book seeks to fill these gaps. It develops conceptual categories appropriate to polycentric arrangements in weak states, expands the minarchist Islam-polycentric governance link, and explores the constitutional roots for a minarchist polycentric constitutional order in Pakistan. I argue that far-reaching constitutional deliberations in Pakistan, particularly those after polity-shaking crises, have touched on minarchist polycentric governance, albeit in different language. In *Political Survival in Pakistan* (Malik, 2011), I treated ideas as exogenous or as signaling devices for politicians and affinity groups. In contrast, the present book looks at religious ideas as meta-norms for producing a viable polycentric order. Inspired in part by conversations with Vincent Ostrom in the 1990s, this book suggests how “covenant” translates into a political Islamic context where religious reference is frequent in political discourse. This goes beyond theorizing a “Muslim compound republic” into considering the meaning and vulnerabilities of an order that evokes Islamic symbol at the constitutional level.

Polycentric governance and political Islam strike many Muslim and non-Muslim observers as being opposites. “Statist” ideologies of political Islam, which describe an activist state that endorses a comprehensive doctrine and enforces public morality, are a popular research focus. Yet there exists an established political theology in Islamic tradition and history that accepts plural religious interpretations and advocates tight constraints on government intervention in community life. Thus, one under-explored political theology in Islamic tradition resembles the “minarchist” school in libertarian thought. Moreover, I argue that “minarchist political Islam”, at least in the sense of substantial autonomy for the units, was suggested in the Lahore Resolution. This

historically significant convention statement in 1940 supported the creation of Pakistan from British India, although it arguably had more nuanced reference to multiple possible understandings of nationhood, including the possibility of a less than complete separation from India (Jalal, 2005). Minarchist political Islam was a subtext in the creation of the most populous Muslim country in the world. Pakistan was founded explicitly as a state designed to protect Muslim aspirations. Its religious identity and size make it a unique experiment; many Islamist movements today claim to aspire to an outcome that Pakistan achieved in 1947.

Pakistan was the largest Muslim country when it was created, and was created based on the slogan “Islam in danger”. It was supposed to be a state for Muslims, and one that many presumed would be “Islamic” as compared to neighboring India. The Objectives Resolution to the Constitution explicitly defines Pakistan as being Islamic. Pakistan includes great diversity, and has struggled with conflict between Islamic factions as well as ethnic and linguistic groups, and with cohesion in its polity overall. Pakistan’s history and present situation represents an unfolding experiment in modern political Islam. Its experiences have relevance to other developing, diverse Muslim countries, including Indonesia, Nigeria, Malaysia, and Lebanon, among others.

There are paradoxes in Pakistan: the attempts to assert a unitary state, despite officially proclaimed federalism, and the reality of a polycentric, multivalent Islam despite various nods to a monolithic vision; a democratic form with extraordinary power for unelected institutions. There are significant gaps between the formal setup and the informal reality, or the lived experience. Recognizing and reconciling this gap is critical if the quality of public politics in Pakistan is to improve, which in turn is a significant step towards improved governance outcomes.

Internal and external challenges to Pakistan’s integrity (such as East Pakistan’s demands for autonomy and insurgent activity by violent substate groups like the Taliban) generate insights about the viability of minarchist political Islam. Some would argue that the minarchist project in Pakistan has failed, given the recurrent dominant executive and its incursions into various jurisdictions, as well as the willingness to adopt a far-reaching official Islam. Some notorious sectarian groups have adopted violent tactics; these include the Tehrik-e-Taliban Pakistan, Sipahi Sahaba Pakistan, and Sipahi Muhammad Pakistan, each of which have far-reaching security implications.

Pakistan analyst Selig Harrison has recently argued that if it is to survive as a state, Pakistan requires a radical domestic restructuring - a rewriting of the political rules of the game. The less radical such a restructuring is (ie., the more connected, with roots in the Pakistani political context), the greater its chance of succeeding. This book suggests a path for thinking about such restructuring in historical context, drawing on a substantial current in Pakistan’s political history. The doyen of Pakistani historians, Ayesha Jalal, raised what may be termed a constitutional-level challenge in the preface to the paperback edition of *The Sole Spokesman*: “to rethink and reconstitute the structural and ideational bases of states through the pooling of sovereignties of its fragmentary parts”. This book can be considered an attempt to advance the conversation in this direction.

Understanding Pakistan’s political evolution, and the centripetal forces that have threatened to break it apart, offers insights into minarchist polycentric Islam as a normative force with the potential to shape constitutional understandings. An explicit and

implicit minarchist impulse has recurred in Pakistan's constitutional history, traceable to the Pakistan Resolution, dramatically highlighted by party and group platforms such as those espoused at different times by the Muslim League, the Awami League, and the Awami National Party. Minarchist appeals remain notable in the political rhetoric of various individuals and contenders for office. Rather than simply a bargaining posture for acquiring a bigger slice from the central government's pie, these claims reflect a widespread belief that a minarchist polity is a legitimate constitutional direction for Pakistan.

In *Political Survival in Pakistan: Beyond Ideology* (Malik, 2011), I argued that in Pakistan, the rule of law was weak, state capacity was low, and amid a governance vacuum and underprovided majority goods, quasi-state actors had de facto power. Key majority goods include building capacity for even revenue collection, land reform, and effective policing. At the central government level, an incumbent's political survival was best served by retaining a narrow, loyal winning coalition of supporters; this increased incentives to divert policy from public or majority goods to private purposes. Challengers could try to split the incumbent's support coalition and build an alternative coalition, and/or create their own state-like organization. These steps could take place simultaneously with formal "public politics" steps of running for elective office and engaging in party politics. One possible path to stability and the rule of law was to recognize and incorporate powerful actors into the polity; this has potential governance benefits through a form of fiscal federalism.

In a weak state context where informal institutions often compete with or substitute for the state, polycentric constitutional design must also consider how to "compatibilize" formal constitutional process and provisions with informal institutions. Selecting and recognizing particular informal institutions may produce perverse incentives and unintended consequences. This poses exceptional challenges for constitutional design in Pakistan, given its heterogeneous, fragmented, and strong society.

### **Ideals and intent**

A key underlying problem is that of the role of ideas and ideals in polities. Ideas can serve as instruments of deception, cloaking other interests such as power or wealth, or as mystical founding meta-norms. That interplay was considered by E.H. Carr (2001 (1939)) in *The Twenty Years Crisis*, his examination of the post-World War I attempt to construct an international order. In brief, ideals do not disappear simply because power is exercised. Rather, power is a means in pursuit of an ideal, and an ideal rationalizes and justifies power. But power in itself repeatedly thwarts and undermines ideals. Neither can be exclusively referenced. Some understanding of underlying power "realities" is necessary. In trying to construct a viable polycentric arrangement in a weak domestic setting, much the same challenge persists.

This book presumes that intent matters at the constitutional level of analysis. There are political survival obstacles to getting intentions to reflect outcomes. There are theoretical and practical difficulties in determining what preferences count as "intentions", with unintended consequences, as well as with collective action issues. Yet the "design" element must consider intention, and since design was a key preoccupation of constitutional deliberation, it remains one in this study.

**Studies of political Islam presume monocentric design**

Polycentric design in weak states with an Islamic identity- has not been theorized and investigated. A monolithic Islam is often presumed, which comes with a monocentric idea of governance. Discussions of “Islamic state” tend to focus on the Islamic part and gloss over what precisely is meant by “state”. The polycentric approach emphasizes governance in a broader sense. Likewise, “law” is more than simply rules in formal documents. How to be both “Islamic” and a state with a diverse, fragmented society is an ongoing constitutional problem.

Islam is presented as monolithic in public discussions and scholarly examinations. Even those studies (increasing in numbers) that acknowledge the diversity of Islam and politics tend to assume that public law and governance comes from a central state apparatus. Much debate around “Islam and the modern state” or “Islam and democracy” has presumed that a central state apparatus provides the principle locus for governance. Writers typically do note some exceptions, but the base presumption according to which most scholarship (as well as polemic) proceeds remains the predominant central state.

Many studies of political Islam focus on its statist aspects, presuming that Islam lends itself to a comprehensive doctrine that must be applied by the state through the basic law (ie., constitutions) and public law (specific legislation). It is not surprising that scholarship on political Islam presumes monocentric governance. The most famous modern approaches to political Islam presume that the Islam in public law must be uniformly applied by the state within a particular country. Famous or notorious thinkers (depending on one’s perspective) include Abul Ala Maududi and Sayyed Qutb, as well as lesser known figures such as Taqiuddin Nabahani of the Islamic Liberation Party, the Hizbul Tahrir al-Islami. Each advocated an Islamic state that would arise from the action of a committed vanguard that would gradually transform society and eventually the state to a purer Islamic condition. These approaches presume some local diversity in how things are done, but within rigid bounds and on limited matters. I argue that an alternative approach to political Islam exists, one that acknowledges and values polycentricity. This approach works better in the diverse contexts we find in the Muslim world at present.

Sayyid Qutb and Maulana Maududi, among the best-known Islamist ideologues of the twentieth-century, both advocated an “Islamic state”, although the basic form was not outlined in great institutional detail. To Maududi, a “theo-democracy” was needed, but his approach was to develop a vanguardist political party that engaged in social movement activism. Sayyid Qutb’s work drew heavily on anti-colonial themes. The Hizbul Tahrir al-Islami forms perhaps the most well-defined statist response to the Muslim constitutional design problem: a hierarchy headed by a central authority labeled “Caliphate”. The Islamist vision typically totalizes a particular approach to understanding Islamic law. The secularist vision does something similar; Abdullahi Al-Naim’s recent *Islam and the Secular State* (Al-Naim, 2008), while an extraordinarily thoughtful effort, nevertheless retains a central-state oriented starting point, and thus tends toward repression when prescribed for a polycentric plural society that sees numerous jurisdictions and institutional forms (see the comparison with minarchist polycentric Islam in Chapter 3).

That fact that some prominent Islamist political movements have adopted revolutionary authoritarian stances has justifiably attracted scholarly attention. Yet the full range of Islamic political theologies is considerably broader, and various typologies

have been suggested. Husain (2002), for example, suggests four categories of orientations toward political Islam: a modernist, a secularist, a fundamentalist, and a traditionalist. Yet his categorization rests on an implicit monocentric governance model; each approach has a different take on the mix of Islam and constitutional choice, but they all tend to presume a unitary state monolith.

Minarchist political Islam, an alternative tradition that explicitly limits the state's role, has been neglected. This alternative is one among several possible ways to reconcile political Islam with a constitutionally bounded government, and represents one perspective from which to address the challenges political Islam poses in a pluralistic global society. Polycentric approaches start from a different position: that governance occurs through many institutions and jurisdictions, at different levels, with varying formality. In order to effectively assess governance outcomes, and consider consequences of policy shifts, these multiple, sometimes overlapping sources of rule must be systematically incorporated from the outset.

The challenge of constitutional level analysis, however, is greater than critically assessing the gap between governance outcomes and stated policy positions. Constitutional design has presumed an institutional context that does not match the reality in many heterogeneous, populous Muslim contexts. Moreover, Islamist movements that form popular opposition groups in several authoritarian or weakly democratic states (such as Egypt, Syria, Jordan) usually propose an "Islamic state" that emerges from a social transformation.

### **The Objectives Resolution**

Pakistan was famously called a "laboratory of practical Islam" by Prime Minister Liaquat Ali Khan. In that context, every political choice carries theological significance as estimate of what is right and good to do, and better a deliberated position, with assumptions and arguments made explicit and transparent and therefore open to interrogation, than an implicit and opaque presumption that is more difficult to interrogate. Smith's position (1951:103) that administrators in Pakistan are not free to not interpret is particularly valuable in this regard. Inaction or non-choice is a choice; all policies, even those favoring the "do-nothing" option, have implications.

Pakistan provides a case of a polity that was created on an Islamic base, and also recognized at least one dimension of polycentricity in its founding document, the Lahore Resolution. The Objectives Resolution, passed in 1949 by the Constituent Assembly and subsequently included in constitutions, is worded in a way that affirms federalism (Pakistan's territories "form a Federation wherein the units will be autonomous with such boundaries and limitations on their powers and authority as may be prescribed") and allows the possibility of diverse collective choice arrangements within an "Islamic" framework:

Whereas sovereignty over the entire universe belongs to Allah Almighty alone and the authority which He has delegated to the State of Pakistan, through its people for being exercised within the limits prescribed by Him is a sacred trust; This Constituent Assembly representing the people of Pakistan resolves to frame a Constitution for the sovereign independent State of Pakistan; Wherein the State shall exercise its powers and authority through the chosen

representatives of the people; Wherein the principles of democracy, freedom, equality, tolerance and social justice as enunciated by Islam shall be fully observed; W herein the Muslim s s

individual and collective spheres in accordance with the teachings and requirements of Islam as set out in the Holy Quran and the Sunnah; W herein

adequate provision shall be made for the minorities to freely profess and practice their religions and develop their cultures; W herein the territo

in or in accession with Pakistan and such other territories as may hereafter be included in or accede to Pakistan shall form a Federation wherein the units will be autonomous with such boundaries and limitations on their powers and authority as may be prescribed; W herein shall be gu

equality of status, of opportunity and before law, social, economic and political justice, and freedom of thought, expression, belief, faith, worship and association, subject to law and public morality; W herein adequate

to safeguard the legitimate interests of minorities and backward and depressed classes; W herein the independen

W herein the integrity of the territories of the Federation, its independence and all its rights including its sovereign rights on land, sea and air shall be safeguarded;

So that the people of Pakistan may prosper and attain their rightful and honored place amongst the nations of the World and make their full contribution towards international peace and progress and happiness of humanity.<sup>1</sup> (Pakistani.org, 2012)

The key wording here is that Muslims are enabled to “order their lives in individual and collective spheres in accordance with the requirements of Islam” suggest possible diversity in collective choice arrangements. Yet it also leaves open the possibility of accusations that some individuals or collective arrangements are not in accordance with Islam. Examining Pakistan’s political evolution from that period, as well as its struggles with polycentric realities, provide a rich resource from which to assess the challenges and promise of incorporating polycentricity explicitly at the constitutional level.

Pakistan’s early promise seemed to do that when it noted that there were sovereign and autonomous constituent units. The instruments of accession signed by different acceding units appeared to guarantee minimal interference by the central state. The Khan of Kalat argued that his agreement could be withdrawn and sought to exercise that; this precipitated a crackdown by the central state. The Pir of Manki Sharif tried to one-up the state on an “Islamic” basis, arguing that shariah rule was to be imposed in his domain. In that case also, the central state reacted by asserting its hegemonic. The reason was presumably to prevent balkanization.

Many early participants of the Pakistan movement in British India, and

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<sup>1</sup> The word “freely” with respect to minorities was included in the original Objectives Resolution and then left out of a later constitutional document; the 18<sup>th</sup> Amendment to the Constitution reinserted the word “freely” so that the constitutional wording reads as reproduced in the quote above (Pakistani.org, 2012).

particularly those who participated in the founding document known as the Lahore Resolution, believed that the nascent “Pakistan” promised a state with a weak center compared to the more unitary “India” that was being forged. Those who acceded to Pakistan and became its constituent regions did so under a presumption that they would remain largely autonomous units. Yet there were swift disappointments and challenges to Pakistan’s integrity as a state, resulting in conflicts, and eventually, the country’s disintegration. The country continues to face low-grade insurgencies.

Virtually all Pakistani leaders have used Islamic symbols to pursue domestic legitimacy. But this usage has become a double-edged sword; disaffected groups can challenge the Pakistani regime for not being sufficiently Islamic. A revolutionary Islamist insurgent movement, the Taliban, has achieved substantial sway in some rural areas. Moreover, prominent Taliban ideologues have dismissed alternative interpretations of the religious tradition. Such actors pose a serious challenge to a polity built on accepting that Islamic tradition is open to plural interpretations and reinterpretations. These unfolding clashes have undermined the political space for the minarchist approach. How such challenges to polity integrity have originated and persisted carries implications for Pakistan studies, other experiments in minarchist political Islam, and studies of Islam and the state.

A key problem in Pakistan has been the effort to check executive power through the legislature and the judiciary, exemplified by the recent showdown between the deposed Supreme Court Chief Justice Iftikhar Chaudhry - and the lawyers’ movement that supported him - and Pervez Musharraf, the Army chief who had taken power in a military coup. Another conflict has revolved around the effort by provinces and other subunits to achieve more autonomy and limit the central government’s jurisdiction.

The prominent Pakistani economist and former government minister Shahid Javed Burki and other observers have commented that Pakistan must devolve authority in order to retain its national unity and for its development. But most proposals are not grounded in a systematic framework that considers constitutional choice while appreciating the weak state context and relationship between choice at the constitutional, collective, and operational levels.

Imagining a viable polycentric order in a heterogeneous Muslim society facing national security pressures remains a vital task. Pakistan’s experience is a cautionary tale: it has both veins within it, and the difficulty is in finding a balance that satisfies both impulses sufficiently yet remains flexible and robust enough for future unforeseen circumstances. There are some areas that demand monocentric institutions. Common defense might be one, as well as basic tools in economic transactions such as currency, as well as infrastructural necessities that are well-suited to a particular location, such as hydroelectric power stations (although there are increasing technologies for decentralized power). The polycentric reality must be absorbed into the constitutional design process; moreover, that polycentricity must be allowed to persist and bloom. This general orientation, a sharp departure from other approaches, holds promise for improved governance outcomes, although not without risks.

In *Political Survival in Pakistan* (Malik, 2011), I described a three-way mutually reinforcing relationship between weak state apparatus (and associated poor extraction choices), quasi-states, and poor governance. There are at least two possible governance solutions. First, one could make the weak state stronger, through heavy-handed,



repressive, cut-corruption measures that enhance extraction and squelch quasi-states. Alternatively, one could coopt the quasi-states, and compatibilize them with the central state- perhaps by granting them de jure status on a selective basis. It is also possible that enhancing accountability in governance will eventually increase extraction performance and undermine quasi-states.

This lays the groundwork for this study on polycentric governance. It argues that rather than take the “strengthen central state” approach, a more appropriate method may be to devolve authority within bounds to quasi-states. The discussion of “compatibilizing”, “integration of trust networks”, and “minimizing the central state” attempts to work toward this goal. Incorporating polycentricity at the constitutional level promotes public wellbeing and political development and productive social and economic relations. Political actors involved in the constitutional framing process vigorously pursue their own political survival, seeking to secure positions of authority and retain them.<sup>2</sup> This does not necessarily imply duplicity on the part of involved actors; rather it presumes that all actors have goals, and most agendas require their political survival. At the same time, it considers the role of constitutional level understandings, which, in a polity as defined by Islam as Pakistan, must touch on the Islamic tradition.

### **Minarchist political Islam**

Minarchist political Islam is a recurrent and authentic political theology within Muslim history and tradition. The chapter on minarchist political Islam points to vibrant governance institutions that are separate from the central state apparatus in the Islamic heritage, including such examples as the Medina compact, the *Hilf ul Fudul*, the Ottoman *millet* (recognized community) system, the Sufi *tariqa* (religious brotherhood) tradition, the *waqf* system of charitable endowments, and *istihsaan* (discerning alternatives and choosing well) in Muslim jurisprudence. Minarchist political Islam has been described in Malik (2008) and Malik (2011) and is further developed with regard to constitutional choice in this book, as well as distinguished from recent alternatives, such as Abdullahi al-Naim’s (2008) position.

Pragmatically, the secularism/theocracy divide, so central in the thinking of the European experience, may drive Muslim societies to polarization between assertive secularists and rigid religious positions rather than a more viable in-between. Minarchist political Islam (sometimes shorted to “minarchism” in this book) presents a pragmatic path. The “minarchist political Islam” label can be contrasted with confessional consociationalism (exemplified by the Lebanese constitution), the officially-delineated cultural communities approach (found in Indonesia’s Pancha Sila system), and assertive secularism (best represented by Turkey); each are based on the recognition (or nonrecognition) of communal identity rather than collective choice arrangements.

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<sup>2</sup> According to Bueno de Mesquita, et. al., political survival requires a winning coalition, defined as “the subgroup of the selectorate who maintain incumbents in office and in exchange receive special privileges,”; the “selectorate” is “the set of people with a say in choosing leaders and with a prospect of gaining access to special privileges doled out by leaders” (Bueno de Mesquita et al., 2003: xi).

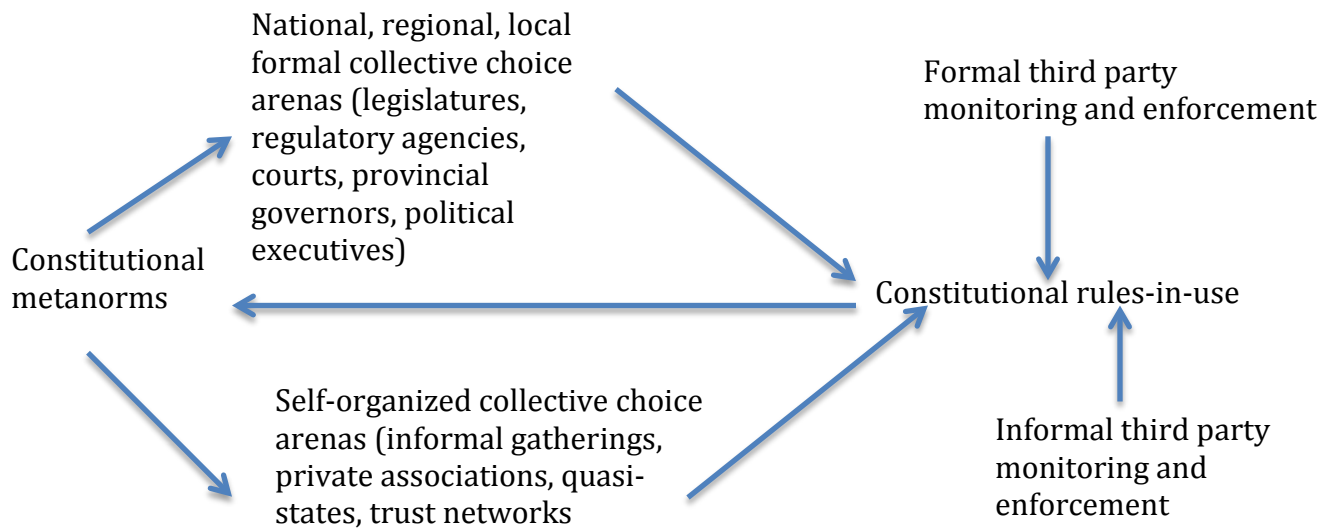
## **Overview and method**

While touching on political theory, Islamic studies, and comparative politics, this book is primarily an interpretative argument based on the constitutional level of analysis in the polycentric governance tradition. Its “constitutional level of analysis” orientation relates to the Institutional Analysis and Design framework developed at the Workshop in Political Theory at Indiana University. Founded by Vincent and Elinor Ostrom, the “Bloomington School” has been globally influential<sup>3</sup>, and is explicated in numerous works (eg., E. Ostrom, 2005; McGinnis, 1999; and Aligica and Boettke, 2009). The Institutional Analysis and Design framework distinguishes between operational, collective, and constitutional choice levels. Operational choice refers to individual decision-making, typically in day-to-day activities. The collective choice level refers to rules structuring operational choices. The constitutional choice level centers on the actors and rules for collective choice decisions.

The following diagram, which I return to Chapter 6, provides an interpretative structure for this study.

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<sup>3</sup> Elinor Ostrom won the 2009 Nobel Prize in Economics for her contributions.

**Diagram 1: Metanorms, choice, and constitutional rules-in-use**

Elements relating to the diagram are examined in six chapters. This chapter introduces the Pakistani context, noting that despite constitutional instability and the struggle between elected and unelected institutions, constitutionalism remains an institutional fact. In the following chapters, the book advances several propositions:

1. Weak states face particular challenges to polycentric governance, particularly those posed by the low quality of public politics and informal institutions.
2. Minarchism is a recurrent, persistent orientation to polity design in Islamicate polities, and is compatible with polycentric orders.
3. Minarchism has been an implicit metanorm in constitutional deliberation in Pakistan, although heavily contested.
4. Pakistan has seen clashes between competing polycentric and monocentric configurations, and a de facto polycentric order exists.
5. A minarchist polycentric metanorm's viability in Pakistan cannot be fully specified, but is conditioned by constitutional rules-in-use, and subject to bounds.

Partly following Nasr (2001), this study draws on the New Institutionalism, including both the rationalist approach ("strategic decisions made by key actors to bring

about institutional change, and in time, new development outcomes”) and the historical approach, which “focuses on the interaction between institutions in a polity as key to understanding particular development paths” (Nasr, 2001: 5). Institutions- formal and informal- structure social behavior, and human agency shapes institutions in ways that may be unintentional. Norms can be institutions. A helpful simplifying assumption is that choices are strategic and guided by political survival considerations. Building on terminology from Skelcher (2004), I also note that collective choice units can vary in their internal integrity, referring to their legitimacy and accountability before the population they serve, and external integrity, and external integrity, meaning the degree to which their autonomy is respected by outside actors.

In some postcolonial Middle Eastern countries, the formal constitution was drafted by an external jurist and adopted by autocratic fiat and with little open deliberation (as seen in the case of the jurist Abd al-Razziq Sanhuri, whose drafts became constitutional blueprints in more than one country). In contrast, Pakistan saw active constitutional deliberation for years before a constitution was adopted in 1956, nine years after its founding. In comparison, Pakistan is advanced in deliberation over constitutional design. However, Pakistan is sizeable and contains numerous parochial identities that are larger than the entire populations of some other countries.

This project is eclectic in method. The primary purpose is interpretative, not evaluative. I draw on my interviews with polity observers and participants, the public statements of informed and influential figures inquiring into matters relevant to constitutional choice, and scholarship on Pakistan, Islam, and polycentric governance. My field research in Pakistan in 2005, 2008, and 2009 involved extensive, detailed interviews, many lasting over 2 hours, and contributed to earlier work (Malik, 2011; Malik, 2007). The interviews continue to yield subtle insights into how influential and diverse participants in the Pakistani polity view their underlying political culture and evolution. Interviewees included religious and non-religious individuals, as well as Islamists and non-Islamists, elites and non-elites, and individuals from different ethnic, religious, and sectarian backgrounds.

Additionally, several public records stand out as helpful sources: deliberations of the Constituent Assembly, judicial judgments into constitutional controversies, the Hamoodur Rehman Commission Report, and the Munir Report. These provide the basis for an analytic narrative of the contested constitutional metanorm of minarchist Islam and the constitutional challenge of accommodating diverse collective choice arenas. It is in intense examination of major polity crises and failures that constitutional deliberation becomes prominent. The investigators inquire into what went wrong with respect to collective and operational choices, and wonder about what might be done to remedy things- including constitutional considerations. Moreover, the actual investigations reveal the informal practices that shape collective choices, and this sheds light on informal constitutional processes that the formal legal constitutional documents do not reveal.

The Hamoodur Rehman Commission’s Report inquired into the events and circumstances leading to the breakup of Pakistan. Headed by Chief Justice of the Supreme Court Hamoodur Rehman, the Report represents an extensive effort to investigate what many regard as the greatest national failure of the country’s history,

because of its sweeping examination of grand and specific issues, its composition, and its unprecedented access to military and other officials and citizens. While some portions remain classified, the Report's declassified remainder provides an invaluable survey of critical forces, actors, and choices in Pakistan. Moreover, the Report deliberately surveyed Pakistan's periods of "constitutional rule" and martial law. In part because the debacle was associated with Indian intervention, the Hamoodur Rehman Commission report has significance as an attempt to suggest how to remedy internal shortcomings and thereby thwart external threats. It represented a step toward accountability, although its impact was mitigated by the fact that decades passed before it was declassified.

The Munir Report, represents a far-reaching attempt to assess the circumstances and developments that produced the anti-Ahmaddi riots associated with the Ahrar movement. The report included 1600 pages of written statements, 2600 pages of evidence, 339 formally proved documents, letters, books, pamphlets; the report itself covers 38 pages (Hamid, Khan, 2009: 72). This effort reflects careful deliberation on the role of Islam in the state. While admittedly narrow in its authorship (Justice Munir and Justice Kayani), the report drew on numerous sources and has been a reference for critical engagement with questions of Islam in Pakistani politics and society. The Munir Report attempts to deal with what may be termed the internal threat associated with intergroup rivalry, violence, and persecution, particularly as they relate to Islamic identity and minorities.

Other sources include scholars and former government officials. G.W. Choudhury was a former government official as well as a scholarly commenter. Farooq Hassan was a well-reputed attorney and barrister (and adviser to several Prime Ministers). Hamid Khan's constitutional history provides a helpful overview. As a textbook-style effort, it provides a glimpse of interested and educated Pakistanis may learn about their constitutional history. Scholarly accounts and analyses from Ayesha Jalal, Vali Nasr, Omar Noman, Muhammad Waseem, Paula Newberg, and various others are also valuable resources for this effort. W. Cantwell Smith provides a valuable deliberative overview of Pakistan as an Islamic state, and its possible meanings; given his vantage point in the area before and after independence, his assessment is particularly valuable.